

REMARKS**Summary**

Claims 1-3, 5-12, and 14-30 are pending. No new matter is added.

Claim Rejections Under 102(e)

Claims 1-3, 5, 6, 10-12, 14, 15, 20, and 21-25 are rejected under 35 USC 102(e) as being unpatentable over US Patent No. 6,717,915 to Liao (Liao). Applicants respectfully traverse the rejection in light of the remarks below.

Claim 1 recites a method comprising attempting by a client to access a shared resource; detecting by the client that the shared resource is unavailable; determining by the client a first back off interval for the client to delay before reattempting to access the shared resource; successfully accessing the shared resource by the client, upon expiration of the first back off interval; and determining by the client, based on the successful access of the shared resource by the client, a second back off interval for the client to delay before reattempting to access the shared resource after said successful access. Liao fails to teach or suggest all the features of claim 1 as presented above.

Liao provides a method for dynamically adjusting the timing parameters in a data network. The timing parameters may include values for implementing a back off interval for retransmission attempts. However, in Liao, such a back off interval is based on an unsuccessful attempt or an unsatisfactory transmission.

Claim 1 recites a first back off interval established based on the determination that the shared resource is unavailable, and then once access to the shared resource is successful, a determination of a second back off interval based on the successful access. The second back off interval thus sets the time before which a successful attempt may be followed by another attempt by the same client to access the same shared resource. Therefore, the first back off interval and the second back off interval in claim 1 differ in that the first back off interval is based on an unsuccessful attempt to

- 8 -

Attorney Docket No. 112076-138350
Application No.: 09/825,907

IPN P036

access the shared resource, and the second back off interval is based on the successful access of the shared resource. It is this shift that provides for the desired control of the access of the shared resource.

The method of claim 1 thus provides for self-imposed (i.e., client-imposed) restraint and "good citizenship" in which a successful attempt following one or more previously unsuccessful attempts to access a shared resource results in the establishment of a second back off interval to avoid overloading the shared resource as soon as it becomes available, and allows for potential access by other client devices that may also have been experiencing an unavailable condition of the shared resource.

Liao on the other hand simply adjusts a first back off interval based on unsuccessful or unsatisfactory attempts to transmit data. Liao describes in detail the utilization of various data to determine the optimal back off interval, but at no point describes the establishment of a second back off interval based on a successful access of a shared resource as recited in claim 1.

In particular, claim 1 recites "determining by the client, based on the successful access of the shared resource by the client, a second back off interval for the client to delay before reattempting to access the shared resource after said successful access." The Office Action cites Column 4, lines 59-67, Column 6, lines 1-25 and 64-67; Column 7, lines 39-67; and Column 8, lines 1-11, for teaching the above-recited portion of claim 1. Nowhere in any of the cited passages is the above clause taught, namely, (1) determining by the client, (2) based on the successful access of the shared resource by the client, (3) a second back off interval for the client to delay before reattempting to access the shared resource after said successful access.

First, the above clause provides for the determination of the second back off interval to be determined by the client. In Liao, the server alone, or in coordination with the mobile device, determines the timing characteristics. Thus, any resultant back off is not a client-imposed restriction, but rather a server driven characteristic based on a view of demands on the server and message timing.

It should be noted that Column 6, lines 1-25 (cited in the Office Action), discusses the wait time after an unsuccessful attempt, and thus provides a

determination of a first back off interval. However, there is no teaching of a second back off interval that is based on the successful access of the shared resource by the client.

In addition, the remaining cited portions of Liao all teach the server directed modification of the timing parameters, with possible input from the mobile device. As discussed in Liao, the goal of these timing parameters is to attempt to make both devices operate efficiently. There is however no teaching of a client-imposed second back off interval established by the client after the client has been successful in accessing a shared resource.

Thus, in Liao, after a mobile device has been successful in accessing a shared resource, a server may analyze the message timing characteristics, and based on unsatisfactory timing characteristics, establish different timing parameters. On the other hand, claim 1 provides a method in which a client establishes a second back off interval based on the fact that the client was (a) successful, and (b) after first being unsuccessful, in accessing a shared resource. Clearly, Liao fails to provide such a teaching.

Further, the Office Action states on Page 7 that Column 5, lines 1-25, teaches that the client accesses the server, trades messages with the server, and from that determines the back off interval for the next attempts to access the server. However, as noted above, Column 5, lines 1-25, teaches the establishment of these timing parameters by the server. In claim 1, it is the client that determines the second back off interval. In addition, Column 5, lines 1-25, establishes timing parameters based on various timing statistics, such as how long a message response takes to be received. Thus, Liao is concerned with adjusting the timing parameters based on the round trip timing of messages. Claim 1 does not address how long it takes a response to a message to be received, but rather differently establishes a second back off interval based on the fact that an attempt was successful after a previous attempt was unsuccessful as recited in the claim.

Therefore, Liao clearly fails to teach or suggest at least one element of claim 1, and thus claim 1 is patentable over Liao. Applicants thus respectfully request reconsideration and withdrawal of the rejection.

Claims 10, 20, 21, and 22 contain, in part, similar language to claim 1, and thus are patentable over Liao for at least the reasons discussed above with respect to claim 1.

Claims 2-3, 5-9, 11-12, 14-19, and 23-30 are dependent, directly or indirectly, on claims 1, 10, 20, 21, and 22, incorporating their features respectively, and thus are patentable over Liao for at least the reasons discussed above.

Furthermore, with respect to claim 2, the Office Action cites Column 6, lines 19-44, of Liao. Liao teaches the establishment of a back off interval based on an unsuccessful attempt. Liao does not teach establishing a second back off interval. And further, Liao does not teach that the second back off interval is less than the first back off interval as recited in claim 2. Claim 11 contains language similar to that of claim 2 and is patentable for at least the reasons discussed above.

With respect to claim 3, the Office Action also cites Column 6, lines 19-44, of Liao. In such a teaching, Liao teaches that successive retransmission attempts should be farther and farther apart (see also Fig. 3, and Column 8, lines 1-5). Claim 3, however, recites that additional back off intervals after each successful attempt should be less in duration than the previous back off interval. Clearly, no such teaching is provided in Liao. Claims 12 and 23-25 contain language similar to that of claim 3 and are patentable for at least the reasons discussed above.

With respect to claim 19, the Office Action cites Column 7, lines 52-67, and Column 8, lines 1-16, of Liao. Nowhere in Liao is there taught a counter to determine how many unsuccessful access attempts of the shared resource have been made by the client, wherein the counter value is not reset to zero upon the client successfully accessing the shared resource. The portion of Liao cited in the Office Action merely discusses establishing timing parameters, in particular, in which subsequent unsuccessful attempts are followed by an attempt after a longer back off interval. Liao fails to teach (a) a counter, (b) to determine how many unsuccessful access attempts of

the shared resource have been made by the client, and (c) wherein the counter value is not reset to zero upon the client successfully accessing the shared resource.

With respect to claim 26, the Office Action cites Column 6, lines 19-44, of Liao. However, the cited teaching does not teach the second back off interval being based on the number of unsuccessful attempts by the client. First, Liao does not provide a second back off interval. Second, nowhere in Liao is there a teaching of a back off interval being established after a successful attempt, where such an interval is based on the number of unsuccessful attempts by the client. The only teaching in Liao of modifying the transmission frequency, indicates that, after an unsuccessful attempt, a retransmission time period may be lengthened. Thus, Liao fails to teach the features of claim 26. Claims 27-30 contain language similar to that of claim 26 and are patentable for at least the reasons discussed above.

Claim Rejections Under 35 USC 103(a)

Claims 7-9 and 16-18 are rejected under 35 USC 103(a) as being unpatentable over Liao in view of US Patent No. 6,185,184 to Mattaway (Mattaway). Claims 7-9 and 16-18 depend, directly or indirectly, on claim 1 or claim 10, incorporating the features of claims 1 and 10, respectively. Therefore, as claims 1 and 10 are patentable over Liao, so are claims 7-9 and 16-18, by virtue of at least their dependency. Since Mattaway does not remedy the above discussed deficiencies of Liao, claims 7-9 and 16-18 are patentable over Liao alone or in combination with Mattaway.

Conclusion

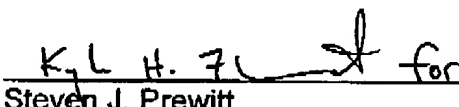
In view of the foregoing, Applicant respectfully submits that claims 1-3, 5-12, and 14-30 are in condition for allowance, and early issuance of the Notice of Allowance is respectfully requested.

If the Examiner has any questions, he is invited to contact the undersigned at (503) 796-2844. Please charge any shortages and credit any overages to Deposit Account No. 500393.

Respectfully submitted,
SCHWABE, WILLIAMSON & WYATT, P.C.

Dated: April 27, 2006

Pacwest Center, Suite 1900
1211 SW Fifth Avenue
Portland, Oregon 97204
Telephone: 503-222-9981


Steven J. Prewitt
Registration No. 45,023

Kyle H. Flindt
Reg. No. 42,539

- 13 -

Attorney Docket No. 112076-138350
Application No.: 09/825,907

IPN P036